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The Court: Well, let me ask them about it. What about that, Mr. Morris?

Mr. Morris: Your Honor, the Secretary of the [325] Board is on vacation. She returns either tomorrow or Sunday, and on Monday we will have either located those petitions or we will have photostatic copies.

The Court: That's all right. Suppose you have them there Monday morning.

Mrs. Motley: Then can we stipulate that they will just be entered into the record as the original that were filed by the Rev. Stell.

Mr. Morris: We prefer not, until we can examine the originals.

The Court: Then suppose you let that pass over until Monday morning and then on Monday morning you can submit them to counsel.

Mr. Morris: All right, sir.

The Court: Anything further for the Doctor?

Mr. Pittman: No, sir.

The Court: All right, Doctor, you may step down. Call your next witness.

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[326] DR. ERNEST VAN DEN HAAG, SWORN for the intervenors, testified.

*Direct examination by Mr. Leonard:*

Q. Will you state your name and address, please? A. Dr. Ernest van den Haag, 58 Morton Street, New York 14, New York.

Q. What is your present employment, Dr. van den Haag? A. I am Professor at New York University, and a lecturer at the New School for Social Research.

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Q. What are the subjects which you teach? A. Sociology and social philosophy, and I may add that I am also a psychoanalyst in private practice.

Q. What is your background and training, Dr. van den Haag? A. I studied in Europe, at the University of Florence, the University of Naples, at the Sorbonne, I received a Degree of Master of Arts from the University of Iowa and a Doctor of Philosophy from New York University.

Q. Sorbonne at the University of Paris? A. That's right.

Q. Have you taught elsewhere than at the New York University? A. I taught in the Graduate Division of Brooklyn [327] College, at City College in New York, and the University of Minnesota.

Q. Have you lectured at other Universities? A. I have lectured at Harvard, to the Psychiatric Faculty, and at Yale, and a number of others.

Q. Are you the author of any books?

Mr. Mayfield: Your Honor, I think we can stipulate that the Doctor is eminently qualified to testify to whatever he is going to testify to.

The Court: All right, then that eliminates that.

Mr. Leonard: I have just a few more of his qualifications I would like to get into the record.

The Court: You just want to get it into the record.

Mr. Leonard: Just for the record.

The Court: Well, make it brief then, because I think that is sufficient.

Q. Were you the author of a book in 1956 entitled "Education as an Industry"? A. Yes, sir.

Q. Were you the co-author of a book entitled "The Fabric of Society"? A. Yes, sir.

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Q. And were you the author in that book of a chapter about prejudice? [328] A. Yes, sir.

Q. Have you written a number of scientific articles in the general field in which you work? A. Yes, sir.

Q. Just to mention two—are you the author of “Psychoanalysis and its Discontents” in *Psychoanalysis, Scientific Method and Philosophy*, printed by the University Press? A. Yes, sir.

Q. And “Genuine and Spurious Integration” in *Psychoanalysis and the Social Sciences* in New York last year? A. Yes, sir.

Q. Have you had articles in magazine and other professional publications abroad as well as in this country? A. Yes, sir.

Q. Has your background and experience, Doctor, given you any basis, in your opinion, for expressing a judgment on the matter of the effect on classrooms of the integration of white and negro pupils? A. I believe so, sir. I have taught both quite a bit.

Q. And I ask that you relate your opinion only to primary and second grade school levels. To what extent, Doctor, are school pupils grouped in their own consciousness? To what extent do pupils identify themselves with other pupils [329] or other groups? A. Well, my answer here would rest partly on observation, and partly on the literature. My own observation is that members of each group tend to identify with their groups, or group members, and are selective in their associations. On this point, a number of studies have been made, which I would like to call to your attention.

Q. Would you please do so? A. It is a study by Professor George A. Lundberg, called “Selective Association Among Ethnic Groups In a High School Population.”

Q. Who is Lundberg? A. He is a Professor at the University of Washington, and is a past President of the

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American Sociological Association, and I think in academic and scholarly circles he is regarded very highly.

Q. Is he an authority in the field in which he writes, to your knowledge? A. To my knowledge, he is, yes.

Q. The conclusions which he states, do they express the burden of authority in this field? A. I think so, and moreover I am not aware of anyone having attempted to contradict him.

Q. Are you in agreement with him? [330] A. Yes.

Q. Do you adopt those conclusions as your own? A. Yes, sir.

Q. Will you please state what Dr. Lundberg's conclusions are? A. In brief, he found in both observing and interrogating high school populations in various places and integrated high school that there is a preferential pattern of association, that the white pupils tend to associate with other white pupils, and negro pupils with other negro pupils, and he expresses the view that this is in the nature of the matter and not due to prejudice.

Q. Now, when you say in the nature of the matter, Doctor, what do you mean by that? That it is an innate or inherent characteristic of the individual? A. I would prefer to say inherent rather than innate. What he means to say is that the pupils do not learn this or is driven to this by prejudice, but that they have a spontaneous tendency to behave in this pattern of selective association.

Q. As I understand, you are saying that this is not a learned reaction? A. No. I think you understood correctly, and if I may turn to this. (Indicating document) There are a number of studies which indicate that the same pattern exist in pre-school [331] children. This, I think, would indicate that it is spontaneous.

Q. In other words, this pattern exists at the time they reach the school age? A. Yes.

Q. Now, you said there were other articles coming to these same conclusions? A. Yes. I have in mind an



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article—just a minute and I will quote it exactly—“Racial Attitude Of Children” by Marion Radke, and other co-authors.

Q. Will you identify the others, please? A. Gene Southerland and Pearl Rosenberg.

Q. Would you identify the authors in her field? A. Marion Radke is Professor of Social Psychology at the University of Denver, Denver Colorado. Gene Southerland at Wheelock in Boston, and Pearl Rosenberg, I do not know her academic status.

Q. Have you read that article? A. Yes, sir.

Q. And know its conclusions? A. Its conclusions, if I may—

Q. Well, before you get to the conclusions, Doctor, are they conclusions with which you agree? A. Yes, sir.

[332] Q. Are they conclusions which are in accord with the general trend of knowledge in that field? A. Yes, the pattern of selective association is generally admitted, and I don't know of any evidence to the contrary.

Q. And, in addition to agreeing with, do you adopt those conclusions as your own? A. Yes, sir.

Q. Will you state what those conclusions are, please? A. May I quote a sentence from the article, which states it very clearly?

Q. Yes? A. “The white children in all situations and at all ages express strong preference for their own racial group. This is particularly the case when the choice is between negro and white children.”

Q. Now, is this in accord with the previous statement that you made that this attitude develops at the pre-school age, or at least exist at a testing age prior to school? A. Will you repeat the question?

Q. Is this in accord with, or is it the same attitude as the one which you previously stated existed at pre-school? [333] A. Yes, sir.

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Q. And this refers to school? A. Yes, sir.

Q. Where was the study made? Do you know, Doctor? A. Yes, in Pittsburgh.

Q. Have there ever been a segregation of the schools in Pittsburgh, as far as you know? A. Certainly not a legal one.

Q. In other words, these attitudes exist in a city or cities which did not have a dual school system? A. Correct, and the studies were made in schools which had a percentage not below 20 percent of negroes.

Q. Now, in terms of this group identification, I would like to ask you to turn your mind, Doctor, to the individual who is superior within this group, and considering him, considering the individual, who is fully capable of handling class room work of a caliber which is at or above the median of the white group, say, from the negro group to the white group. Does the group identification he makes with the slower moving group affects his own progress, or theirs? A. Well, there are three points I would like to make. The first is that although such a superior pupil might possibly identify with other superior pupils of a different [334] group, as a matter of fact, in my experience, the pupil retains his identification with his own group. This identification may lead to certain psychological consequences, some of which may affect achievement level.

Q. Would he be conscious of the group, of the progress taken as a whole of the group with which he identifies himself or lack of progress? In other words, would he contrast the two groups in his own mind in making his identification? A. Yes, he would, of course, and this is one of the things I mentioned that may affect his own achievement level and psychological welfare. He will remain conscious of his own achievement.

Q. To what extent would it affect the achievement level which he would otherwise reach within his own group? In



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other words, if he moves from a lower group to a higher group, although he is perfectly competent to achieve the work of the median of that group? Does it, in any sense, in your opinion, deprive him of the extent to which he should excel in the group with which he identifies himself? A. Now, you have lost me.

Q. I may have lost myself. I will withdraw the question. In short, a superior pupil in any group secures a sense of achievement by excelling within that group. Am I correct? [335] A. Yes.

Q. If you move him to another group in which he does not excel as much, even though he is quite competent to do the work, does that deprive him of any stimulus or achievement to any extent within the educational process? A. I would not say that it deprives him of a stimulus. What do you have in mind? Let me see if I understood the question—that the superior pupil, who was superior in his own group and then is moved to a group in which he is not superior to the same extent, is that you what mean?

Q. Correct? A. This would not, I think, adversely affect his ambition, but what it probably would do is to discourage his ability to pursue this ambition for the very simple reason that having had a record in school, as the authorities call it, which permitted him to excel, he is now transferred to a school which his position will be, comparatively speaking, low and the effects of that tend to be usually some sort of psychological injury, I would say. This is a vague term, and I may add that I am speaking here in large terms, and it may not affect every single individual in the exactly the same way.

Q. Now, as to the group, if we have two groups, one more advanced, one less advanced, in any particular range of ability, what happens to the lower of the two groups, if its [336] higher members are stripped off and transferred to the other? Is there any psychological effect from that? A. Yes. I think it demoralizes the lower group as it is

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deprived of its leadership, although the cream of that group that has now been removed, according to your question, to another group, may still feel identified with the lower group from which that cream has been removed, it has no more—shall I say, leadership, toward which to strive, so the effect of that is the lower group will be below the achievement level that it could have had had the cream, as it were, not been removed.

Q. Now, would this tend to increase to any extent any feelings of inferiority which might otherwise have been in the lower group? A. It will certainly increase feelings of inadequacy, and these feelings may adversely affect the lower group, if I understood the question.

Q. Would it tend to contrast and heighten the contrast or the comparison between the two groups in the minds of the lower group? A. Yes, sir.

Q. Now, if we were to take at the present time, Dr. van den Haag, as this complaint has it, and make the schools of Savannah-Chatham County 60 percent white and 40 percent negro, would these effects, which you have discussed in terms of [337] group identification, occur within the class room? A. Well, I think the major effect, as I can see it, would not be so much on the pupils that you mentioned before, those who are above the average achievement level, but the reversed effect would be for those whose achievement level is average, for they will attach to a group, the achievement level of which, for whatsoever reasons, is considerably above the one to which they are accustomed, that is, the gulf between what they expected to achieve and what they can achieve, would be greatly increased. Now, a strong increase of such a gulf leads, usually, to discouragement and inadequacy and inferiority, and so on, or frustration, if you wish, which tends to be expressed in hostility toward the group that is doing better than they can manage to do.



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Q. Then, in such a situation, if this feeling of hostility developed, Doctor, what would be the effect upon the superior pupil of the lower group? A. It would be torn, because, on the one hand, as we said before, we change his identification with the lower group. On the other hand, his own achievement may not be below the expected standards, if he is a superior pupil, so that he would be torn between his loyalty to the group with which he identifies and there is a gulf that is established between him and the others according to his achievement level. This would lead to [338] a situation which leads to considerable psychological conflict within the pupil in many cases and this, in turn, though his intelligence will not suffer, would probably prevent full utilization of his gifts.

Q. In turn, with the frustration, which you have discussed, would that affect the larger group to any extent at all, or would it be ignored, educationally speaking? A. Restate that, please. I didn't get it.

Q. If you have a 60-40 group, biracial group—but first, Doctor, at this point, will you tell me what constitutes a group? In what sense do individuals recognize themselves as a part of a group? What make a group for individual identification? A. Well, if I understand the question, there are various definitions, but in society it is defined as a number of people who have more and more frequent relations with each other in terms of association than they have with outsiders, or other groups or individuals, and the result of that, or associated with that, they have a feeling of solidarity as a group toward other group members, a group feeling toward other group members, and an alienness toward the out-group, other groups. I think that is so for any group.

Q. Would this, for example, Doctor, be grouped around the group consciousness of sex between boys and girls? [339] A. At certain ages, that is certainly the case. At a later age it may change.

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Q. They are conscious of their own grouping? A. Certainly.

Q. Could this group form itself, say, around a common language? A. Yes. It is very true that frequently children actually invent common languages for the purpose of forming such a group. Also, let me say that professionals and various other groups tend to invent a language of their own partly for the purpose of group formation. The language itself later on leads to further group formation, I would say.

Q. Now, in addition to sex and language, do characteristics, not held in common, tend to form such groups? A. Often, they do, yes. For instance, athletes may group together, and non-athletes may fall in somewhat different groups, and so on. Groups may vary according to interest, physical characteristics and mental characteristics and so forth.

Q. Does racial distinction constitute such a basis for grouping? A. Well, racial is a little vague.

Q. Physical characteristics commonly recognized as such? A. They do, particularly at an early age. The [340] earlier the age the more the recognition and identification with similar looking people. As one grows older other matters, such as profession, income, culture, and so on, tend to play a greater role.

Q. Now, the original admission into school, a racial distinction in the sense of obvious physical characteristics are fundamentally a form of group identification, is that correct? A. Yes.

Q. Has this matter been treated in any study, to your knowledge? A. In the studies I have already quoted, and if you will give me a moment I might find some more.

Q. Well, let me ask you this: Is there an article by Goodman, for example, on the question of evidence as to at what age the racial preference patterns are established? A. Yes, sir. The article in question is called "Evidence



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Concerning the Genesis of Interracial Attitudes", and it appeared in the American Anthropologist, October-December, 1946.

Q. Who was the author? A. M. E. (Mae) Goodman.

Q. And what is her position? A. I frankly, do not know. I have read the article but I am not acquainted with the author.

[341] Q. Are you familiar with the conclusions? A. Yes, and if I may, let me briefly indicate them.

Q. Well, before you indicate them to the Court, do you agree with them? A. Yes, sir.

Q. Are they, to the best of your knowledge and opinion, Doctor, in accord with authority in this field? A. All the studies, with which I am familiar, have come, and I believe I am familiar with the literature, have come quite to the same conclusion, namely, that children in this case of approximately three to four and a half years are in the process of becoming aware of race differences and of its implications, and this is apparent in the observations of the subjects of the study in their rejection of cross-racial hospitality and association and in the vernacular group names they tend to use and so on.

Q. Is there an article in the same field on the question of the subsequent change of attitude in school by a gentleman by the name of Ichheiser? A. Yes, sir.

Q. Will you state who Ichheiser is, Doctor? A. Yes. And I am going to try to find the article. His name is Professor Gustav Ichheiser and he used to teach [342] sociology at the University of Chicago, and the article in question appeared as a special supplement to The American Journal of Sociology, which is published by the University of Chicago. In this article, Professor Ichheiser investigates the formation of groups on the basis of physical characteristics and comes to the conclusion that this is a universal phenomenon, not caused by any specific his-

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torical attitude in any particular country but rather it occurs anywhere where there are physically distinguishable groups.

Q. Is his information general? Does it include schools to any extent? A. Yes. It does include schools; but may I add that the way he formulated his information is somewhat more controversial than the conclusions of the authors that we have discussed so far. He insists that the group formation is not learned on any level whatsoever, but inherent, where some of us feel that he has not proved this particular point.

Q. Now, I will read you from Professor Ichheiser's conclusions and ask you whether you agree with this:

"And, second, if the negroes would refuse to identify themselves consciously with other negroes as a sub-group, then they would develop a kind of collective neurosis, as to other minorities, too, for the conscious "we" would in case of such an attitude be persistently in conflict with the unconscious "we", [343] and this inner split would inevitably reflect itself in different pathological distortions of the Negro personality." A. I am in full agreement with that.

Q. In more of laymen's language, Doctor, is Doctor Ichheiser saying that the aims of negro education should be the development of Negro abilities, attitudes and goals in place of white? Are those synonymous? A. No. I think what Dr. Ichheiser is saying, primarily, in the things that you have quoted, that the aim of Negro education should be to permit negroes to identify this group and prevent them from attempting to identify with groups other than their own for that would lead to pathological effects. Now, it is a conclusion, which I don't think Dr. Ichheiser makes exclusively, but it seems quite warranted, that that involves the kind of education that would develop those characteristics that are specifically inherent in the group, just what I understood you to say.



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Q. Dr. van den Haag, are you familiar with the fact that the article which you have just made reference was submitted to this court as an attachment to the intervenors' papers on their motion to intervene? A. I am familiar with it now.

Mr. Leonard: For the record, this was number 30-A in the attachments to the Intervenors' papers.

Q. Now, you previously stated, Doctor, as I recall, that this whole question of attitude is one which had been subject to various tests, and you have given us some authority on the general effect of it. However, we are dealing here with a specific effect in the field which you are now discussing. And if the Court would permit I would like at this time to hand the witness an extract from *Brown v. Board of Education*, containing the statement which is an issue in this case, that the educational and mental development of negro children is adversely affected by the continuance of the segregated school system, because I would like for the witness, if possible, to comment now upon that statement.

Mr. Mayfield: I have no objections, your Honor.  
The Court: All right.

Q. Dr. van den Haag, I ask you to read that portion of the opinion of the Supreme Court in *Brown v. Board of Education* which states that the separate education facilities afforded to white and black had been found in a Kansas case by a court to have a detrimental effect upon the colored children. The court also noted in the Delaware case, which was heard at the same time, that the Delaware Court had stated:

"I conclude from the testimony that in our Delaware society that state-imposed segregation in education results in negro children, as a class, receiving educational oppor-

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tunities [345] substantially inferior to those available to white children otherwise situated."

Then the Supreme Court stated, and this is the portion on which I ask your comment:

"Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*"—and for your information, Doctor, I will state that *Plessy v. Ferguson* is a decision of the Supreme Court holding that separate but equal facilities was valid constitutionally—

Mr. Mayfield: If your Honor please, I think counsel here can take cognizance of the fact that *Plessy v. Ferguson* decision has been overruled by virtue of the *Brown* decision, and is not valid law now.

Mr. Leonard: I will concede for the record that *Plessy v. Ferguson* to the extent that it is not based on facts has been overruled by the *Brown* case.

The Court: All right, let that be noted in the record.

Q. In making that statement, Dr. van den Haag, the Supreme Court referred to what it called, or stated that its findings were amply supported by modern authority, and listed in a footnote a group of references on the point. Are you familiar here with those references? A. Yes, sir.

Q. Would you please tell us, or describe those [346] references for us and tell us what their contents are? A. Well, I think it is footnote 11 of the decision. There are a whole number of books quoted rather indiscriminately, and I say so because one of the books quoted, I believe, Witmer and Kotinsky, "*Personality In The Making*", comes to a conclusion which is directly contrary to the one the Supreme Court assumes that it comes to; but as far as the



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other books are concerned they do state what the Supreme Court indicates they state, namely, that segregation is harmful to the segregated negro children, and they state that on the basis of a variety of types of evidence which, if you wish, I would like to comment on at this time.

Q. I would like to ask you, first, do you agree with the statement of the Supreme Court? A. No, sir.

Q. That it is harmful? A. No, sir.

Q. Do you agree that congregation would be more harmful? A. Yes, sir, particularly, compulsory congregation.

Q. Now, would you please go into this evidence which was offered to the contrary in its present state? A. Well, there are nearly a dozen works quoted, but the type of evidence is pretty much the same in all, very [347] largely based on several works of Professor Kenneth B. Clark, which are quoted in the footnote of the Supreme Court, which he again used also in an appendix to the brief submitted to the Supreme Court by the plaintiffs in the case. Professor Clark undertook a number of experiments and submitted them to the court. Now, do you want me to describe his experiments, sir?

Q. Yes, would you describe particularly whether they were proper scientific experiments? A. Professor Clark undertook one series of experiments, which is in northern unsegregated schools, and asked a number of pupils certain questions by first showing them dolls, colored dolls and white dolls. He then asked them which of these dolls were nice and which were bad dolls. He asked a number of other questions to make sure that the dolls were properly identified and continued to ask which dolls were nice, and which one would you prefer to be with, to play with, and finally which doll is most like you, yourself. Now, I will come to the results of his experiments in a moment, but now let me point out that a little later, well, about ten years later, exactly the same sort of experiment was repeated by Professor Clark in segregated schools in the

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south. As a result of that experiment there were submitted to a variety of courts in the south in which anti-segregated suits were then being tried. These experiments were taken with a small number of children. I [348] describe in a part of my book, "The Fabric Of Society", that which you have mentioned before, and if I may, I will quote from it.

Q. This is your own language? A. Yes.

Q. All right, sir? A. First, Professor Clark, later on, answered my allegations, but he did not, in his answer, deny that I correctly quoted him. Professor Clark tested 16 children between the ages of six and nine in Clarendon County, South Carolina. He presented drawings of dolls to the children, identical, except some dolls had dark skin, others white skin color, and after making sure that the children had noted the difference he questioned them as to which doll was nice, or which doll was bad, and as to which dolls were like themselves. The majority of the negro children found the white dolls nice, and about half of them picked the nice white dolls as being like themselves. Professor Clark concluded therefrom that prejudice and segregation had led these segregated negro children to identify the white dolls despite the fact their own skin color was dark. He concluded that this involved a confusion and I quote: "confusion of identity." Here are his actual words:

"My opinion is that a fundamental effect of segregated schools, segregation, is basic confusion in the individuals [349] and their concepts about themselves conflicting in their set images." I apologize for the sentence. That seems to be supported by the results of these 16 children, these things that I have quoted. Now, you asked me to comment on the scientific methods involved.

Q. You mean this entire statement is based on the statement of 16 children? A. This statement is, though there is a reference to a previous experiment with about 300



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children, but the reference omits the fact that the outcome of these 300 children was exactly the opposite of the 16 children. What Professor Clark said in his testimony is that this is consistent with the previous result which we have obtained in testing over 300 children.

Q. Well, are you saying that the previous result of the 300 was to the contrary? A. Exactly. I looked up the article and I will quote in a moment Professor Clark himself indicating that the results were quite the opposite of those he first presented.

Q. All right, sir? A. May I say, just briefly, as to these 16 children, that the fault with this experiment is a double one, a triple one. First, if you ask children which doll is nice, and then you ask them which one they identify themselves with, having [350] declared the white doll to be nice they would have to declare themselves to be un-nice to identify themselves with the doll that they had previously called bad, and the logic of the first choice would compel the children, if they want to refer to themselves as nice, to identify with the white doll, and so this is an error in the position of questions.

The second point is that Professor Clark assumed, without any further investigation, that the preference for white dolls, and also in some cases the drawing of dolls, involved an identification and a preference by people owing to prejudice. Now, it seems to me from a common sense inspection that it is very likely that children, generally, prefer the white doll, the white color to the black color. Not only in our culture, but almost all cultures the world over, including societies where white people are practically unknown, and others where negroes are practically unknown, not only children, but other people, too, prefer the white or light color rather than the black color. In most countries that I am familiar with white stands for innocence, purity, joy, particularly anything that is pleasant, whereas, in these same cultures, in these same countries, many of which have

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no race problem whatsoever, black stands for terror, evil, death, things bad and so on; and children are generally terrified by night and prefer the sunlight and so on. So, my first point here is very simple that the preference of [351] children for light skin dolls may not indicate any sort of confusion or anything in particular, but simply a general preference on the part of children for lightness.

Now, an experiment to be scientific usually involves controls. In the case in question, Professor Clark's conclusions might have been either affirmed or contradicted had he undertaken controlled experiments. He might have, in the New York Schools, done in the same manner, that is, whether they preferred dark dolls or blond dolls or teddy bears. Now, suppose the outcome would have been that children, generally, would have said, since they think the teddy bears are nicer than either doll and possibly even have said they are like teddy bears, if you follow Professor Clark's theory then we would have to conclude that in the New York Schools the pupils are suffering from prejudice and teddy bears are preferred. This conclusion is clearly observed.

To come a little nearer the subject, if the same type of thing would have been done, say, in Hawaii—I mean Haiti, or in Liberia, or in any country where there is no question of segregation, the outcome had been the same, why, Professor Clark would have learned from this that the outcome, contrary to what he referred to, had nothing to do with segregation. The outcome would have been different and Professor Clark might have come to at least suggesting some support for his own conclusions.

[352] Now, as you mentioned, sixteen children are not very many, and in particular in an experiment of this kind. Now, there is a second type of control, usually in sociological experiments, namely, you tend to try to either randomize your population, both of which you experiment, that is, you try to be sure that the members of both groups are



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represented in the proportions in which they exist in the actual population and you take into consideration such things as religion, age, sex, economic, residential and environments which may influence the responses, and you make sure that the group is randomly selected. So far as I know, Professor Clark did neither, that is, not as far as I know.

But, as I mentioned before, Professor Clark did test about 300 children in the north, who were unsegregated, in unsegregated schools, and I will quote Professor Clark, as follows:

"The children in the northern mixed school situation do not differ from children in the southern segregated schools in either their knowledge of racial differences or their racial identification." Except that, and I quote again: "The southern children in segregated schools are less pronounced in their preferences for the white doll as compared to the northern unsegregated children's definite preference for this white doll. Although most are in the minority, a higher percentage of the [353] southern children, compared to the northern children, prefer to play with the colored doll, or think that it is a nice doll." And Professor Clark presents in this study, or provides you with tables which confirms this. May I, just for identification, cite the article in which this appears? This is Kenneth B. Clark and Mamie Clark "Racial Identification and Preference in Negro Children. Reprinted in Readings in Social Psychology." The first edition was in 1947 and there have been subsequent editions.

Now, may I remind you that previously Professor Clark had said, in his court appearance with his sixteen children test, that the fact nine or ten out of the sixteen negro children picked the white doll as the nice one, or as the one they liked the best, and so on, indicate, and again I quote: "These children have been definitely bounded in

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the development of their personalities." So, the inconsistency to which I refer consist in this: That the attributes, the mis-identification of the children in the southern segregated schools, their identification of the white dolls and their preference for them he attributes to segregation and as doing harm to their personalities; but then he finds that in northern schools, though actually previously he found that in the northern mixed schools a higher percentage of negro children identified the white doll, or preferred the white doll to the black doll, and finds the white [354] doll prettier and better, so the proper conclusion from this study would be, if he is right in thinking that mis-identification indicates that they have been definitely harmed in the development of their personalities, then the proper conclusion would be that to avoid this harm they should remain segregated, because the unsegregated situation, according to the tests that he failed to submit showed that the mixed school situation leads to far more harmful consequences.

If you wish me to, I may go one step further and point out that since I pointed this out in an article I wrote some time ago—if you wish me to identify it, I will.

Q. If you would, as long as you have identified the others? A. All right, it is "Social Science Testimony in the Desegregation Cases. A reply to Professor Kenneth Clark," appearing in the fall of 1960 issue of the Villanova Law Review. Since I wrote somewhat more extensively along the lines that I have just testified to, Professor Clark has admitted indirectly and without quoting me as such, by saying "One might suggest that northern children suffer more personality damage from racial prejudice and discrimination than do southern negro children. However, this interpretation would seem to be superficial and incorrect. The apparent emotional stability of the southern negro children may be indicative only of the fact [355] that because of so rigid racial segregation and isolation



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the negro child has come to accept as normal the fact of his inferior social status. Such an acceptance is not symptomatic of a healthy personality." Now, as I understand it, this is an indirect rebuttal to the points that I have just made, but I wish to state that this rebuttal means, in effect, that either way, what Professor Clark thinks is harmful is harmful, regardless of the evidence to the contrary, because the evidence to him showed, according to his doll test, that the negro children gave certain responses which, according to Professor Clark, means that they are harmed, whether they are segregated or unsegregated, and then he turns around and says they are more harmed because they are segregated; so one cannot but conclude, and I do so conclude, that Professor Clark's views that segregation is harmful is not based on the evidence and is, in part, in my opinion, contrary to the evidence and to his own tests and in no way supported by the evidence.

Q. When you say it is not supported by the evidence and contrary to the evidence, you mean the evidence which he, himself, had at the time? A. Yes, and not only that, he had the evidence at the time but did not mention it to the court, nor did he mention it in the brief that was uttered to the Supreme Court, nor is that evidence properly quoted by the Supreme Court in [356] that footnote, so that I can only conclude that evidence was overlooked by the Supreme Court, and since Professor Clark was one of the main authors of the many books quoted by the Supreme Court I cannot help feeling that this overlooking was not altogether accidental.

Q. Were there any other articles or reviews in the footnote of the Supreme Court, which either adopts the statements of Professor Clark, or have a similar type basis? A. Most of them, as far as I know, simply assert that segregation has harmful consequences on the basis of general views which authors do not bolster, as far as I can see, with any

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data. There are, I may point out, considerable. It is not only Professor Clark, somewhat against his will, who has given evidence to the contrary, and I would like to mention that—well, first, allow me to quote Professor Clark again in another article in 1939, long before he appeared before the court. The article is called "Segregation as a Factor in the Racial Identification of Negro Pre-School Children." It appeared in the *Journal of Experimental Education* in December, 1939. The conclusion here is, contrary to the one later on used:

"In general the tendency to identify either the colored or the white boy seems to approximate a chance frequency among those negro children in nursery schools where [357] there are both white and colored children. While trying towards identifying the colored boy is more pronounced in the negro children in the semi-segregated and altogether segregated schools."

Now, here again he contradicts his later testimony before the Court.

Here is another article I would like to mention here, and this is by Professor Davis, an Anthropologist, called "Racial Status and Personality Development," which appeared in the *Scientific Monthly* in October, 1943. Here the major point is as follows:

"Where the social group of racially segregated individuals is highly organized, as in Little Italys, or China Towns, or as in many southern negro communities, its members will usually have relatively less psychological conflicts over their racial status."

This, in effect, says, that where there is a fairly high degree of segregation the negroes remain comparatively conflict free. Where there is a high degree, conversely, of integration there are various signs and indications of psychological and personality disorders.

Q. Are there any studies on all-negro American communities? A. Not that I know of.



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[358] Q. Are you familiar with Hill's study on negro communities in Oklahoma? A. Yes, sir, and I have it here somewhere.

Q. Just state to us, generally, Doctor, just follow up the conclusion, which you have just said; that the greater the degree of separation will lessen the degree of conflict in the child? A. This does not altogether regard children, but let me state the conclusion. It is in one sentence. "An individual residing in an all negro society will have a much higher regard for negroes. He will be more equally tolerant in his attitude toward them and thus more favorable in his expression toward his own race." "It appears safe to conclude that the all negro youths have a higher opinion of negroes due to the absence of pressure of the white man." This is an article called "A Comparative Study of Race Attitudes in the all Negro Community in Oklahoma," by Mozelle Hill, as appeared in *Phylon*, the Third Quarterly Issue of 1946.

Q. Is there any other matter that you want to comment on in connection with that finding of the Supreme Court? Have you covered it as far as your present study goes? A. There is a great deal to be said about it. I think that there are two points that I would like to raise.

Q. All right, sir? [359] A. The first is: "Does Integration improve the attitudes of the groups toward each other? What evidence do we have as to that?" The second would regard the compulsoriness of the integration.

Let me start with the second point, if I may. I believe that where contact between the two groups is voluntary and spontaneous it can be useful. I have known of interracial relations of such spontaneous kind, which I think has been fruitful psychologically and intellectually on an individual basis. On the other hand, what experience I have seems to indicate that where their association is not voluntary, where it involves compulsory congregation, or com-

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pulsory togetherness, as has been decreed by the Supreme Court, has maybe done an injury to both the negro child and to the white child; and particularly let me point out that although a great number of investigations have been undertaken about the supposed damage to negro children from segregation, I know of no single investigation that has been even interested or undertaken in trying to find out the effects on negro children who are asked to go into a white school, the population of which does not receive them hospitably. I am not referring to the matters of achievement, and so on, that we have already discussed, but I am referring to the psychological damage, in my opinion, which arises to a child that is asked by its parents or compelled by law to [360] go to a school where it will feel alone and will feel in a hostile environment. If it is true, as the Supreme Court indicates in the matter, which you have been good enough to quote to me, that segregation is humiliating to negro children, then it seems to me that their presence in a white school in which the other pupils look with disfavor on his presence in the school room he must be a hundred times more humiliated, and if it is true that humiliation may leave lasting marks upon the child, then I will say this humiliation must leave far more lasting marks and injury.

Many studies have been undertaken, particularly by Jewish Agencies, to ascertain whether there are valid approaches to combatting prejudice, and whether they were, more or less, effective. One general result has been concurred in by practically every one involved in these studies, namely, that forced association, or forced congregation is not only unhealthful but tends to exacerbate an already existing prejudice, or an existing hostility, so that if the purpose is to reduce group tensions, as these studies seem to indicate, those group tensions are best reduced by permitting the groups, each to cultivate its own identity, and allowing them to associate voluntarily but never compelling them to do so.



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Q. In summary, Doctor, your testimony is that if the existence of separate schools, dual school systems, itself, [361] can be viewed as creating an inferior attitude in the students, whether or not justified, that the psychological results, the psychological injury, if such exist, is far less than would be the result from a forced congregation in a single class room? A. Yes, sir, and I would like to add one point, if I may, and that is this: There is one study, in fact, there are two studies, which tried to compare both the psychological well being and the achievement of negro pupils in a segregated school with that of negro pupils in an unsegregated school, and the studies I am referring to are M. I. Ciowley's, Cincinnati's Experiment in Negro Education, a comparative study of segregated and mixed schools, which appeared in *The Journal of Negro Education*, April 1932; and in the same *Journal*, April, 1943, is a study by W. R. Pugh, *A Comparative Study of the Adjustment in Mixed and Separated High Schools*. Both of these studies concluded that the vast negro pupils, both in the segregated and the unsegregated high schools in the achievement level remain somewhat below on the average with the achievement level of the white pupils. No difference could be detected between the achievement level of the negro pupils in the segregated schools and the achievement level of the negro pupils in the white or mixed schools. The conclusion that was drawn by the authors and which I concur with, that the differences in achievement that do occur, to the extent to which they are not due to congenital [362] factors, may be due to differences in facilities. In other words, if the material facilities in a negro segregated school is not as good as in the white school, and if his instructional staff is not as good as in a white school then, indeed, some of the differences in achievement may be attributed to these inferior material facilities, but the studies I just quoted show that if the facilities are equally as good in the material respects as the white schools, then

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segregation, in itself, makes no difference at all in the achievement of the two schools, whereas, there is, from the material I quoted before, some indication that congregation has an adverse effect on the psychological well being of the two groups, especially if it is forced congregation.

Q. Did you testify previously, also, that it would affect, as a result, the educational progress of both groups? A. Yes, but I think that is mostly due to where the congregation is compulsory. In the studies that I have here quoted, made into notes, the congregation was not compulsory.

Q. It was voluntary? A. Was voluntary, and at least from these studies there is no difference in achievement level between the segregated and non-segregated school as far as the negro pupils are concerned. In most cases, however, the achievement level being somewhat below that of the white pupils.

[363] Q. Would you tend to contrast that to the report of the Washington conditions? Are you familiar with the Report of the Sub-Committee on the conditions in the Washington Schools, following integration? A. I cannot say that I am familiar with it except from reading the newspapers.

Q. Now, as to the footnote of the Supreme Court, could you tell us anything about Kotinsky and the other authors listed there? A. Well, they, as well as the authors who subscribed to the appendix, are people in good standing among social scientists, but I would like to make a footnote to this, if I may.

Q. Go ahead, Doctor? A. There is a study by a very well known sociologist who has just received a prize from the American Sociological Association, Professor Seymore M. Lipset, of the University of California. Professor Lipset—incidentally this study is published in a book called "Political Man", and he pointed out, Professor Lipset pointed out that all social scientists tend to be ideological to a degree of about 80 percent, if I recall the study cor-



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rectly. I think that, rather than the evidence, which is quite to the contrary, explains why social scientists, many of them at least, despite this evidence, did [364] subscribe to the appendix to the brief that I have mentioned before.

Q. I want to ask you a question on that, Doctor. Are you referring to the theory, which started with Watson, that every baby starts out in life with precisely the same gifts and that solely the environment and education determines whether it will be Einstein or an idiot? A. Well, my only objection is that the theory did not start with Watson, but with Pologus, who was a contemporary of St. Augustine. But this theory, which is advocated by some, generally holds that people are born equally endowed and that it is only the social teachment and the opportunities offered by environment which makes for the difference that we can observe. Let me point out, however, sir, that though many social scientists act as though they believe in the theory, I know not a single one who would seriously wish to defend it.

Q. What is the contrary of this theory? A. The contrary of this theory would be that if you teach a hundred people music they don't all become equally good composers; that a Mozart is born and not made. Einstein did not become what he was because he had particular opportunities to learn mathematics. He learned mathematics in the same way a lot of other people did; but because of an inborn talent he became what he was. There are differences, and I would [365] hasten to add that environment does play a considerable role in the utilization of inborn talents. If Einstein had been born in a tribe, where mathematics are unknown, he would not have become the Nobel Prize Winner he did become. If Mozart had been born, not in Austria, but in a place where music is unknown, who knows of what would have become of him, so the environment certainly leads you to utilize to a greater or lesser degree, the inborn capacities, including the intelligence

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that you have, but at the same time environment does not create capacities and capabilities that are not inborn. It merely can utilize them, and such things as intelligence or talents for various activities have, to a very large extent, been inborn.

Q. Dr. van den Haag, it was testified earlier in this case that in the study of identical twins, reared in different environments, intelligence differences up to three points have been noted, as contrasted with the fifteen point difference to individuals collected at random. Would this three points approximate what you have just said of the effect of environment upon intelligence? A. I would think that is a reasonable conclusion.

Q. And the balance would be fundamentally hereditary? A. I would think that is a reasonable conclusion, but not having made these studies myself, I don't wish to go [366] further.

Q. Doctor, are you familiar with Dr. Stymbeck's book entitled "Education and Attitude Change"? A. Yes, let me find it.

Q. Is he regarded as an authority on these matters on which you have been testifying? A. Yes. He has made a survey of this and undertaken some personal observations which are of considerable importance in this matter. His book called "Education And Attitude Change", the effect of schooling on prejudice against minority groups was published in 1961 by the Institute of Human Relations at my own New York University Press, I think, in 1961. His main conclusion is as follows:

"Much of the research stresses that those who are more educated become less prejudiced. The present study finds no such clear-cut relationship. On many issues the educated show as much prejudice as the less educated, and on some issues they show more. The educated are more likely to hold certain—or rather they are more likely to



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favor informal discrimination in many areas of behavior. As we go up the educational ladder all images of minorities are replaced by new ones often no less harmful."

The conclusion is then, and he quotes another author.

Q. Dr. van den Haag, I wonder if you would go a [367] little more slower than that, please, sir? A. He quotes Dr. Hostetter, in the *Journal of Psychology* in 1951. No more widespread education, nor the rise in the standard of living affect racial discrimination directly. It is rather a function of the relative frequency of the element discriminated against. That is what he meant to say, it depends on the number of contacts.

Q. Does the size of the group play any part in the group complex or group tension which you have been discussing, the relative size of the two groups involved? A. Well, what plays a major role, I think, is the combination of sight, size and contact. Here is a study which I would like to quote from on this by a man named Bernard Leander, who studied crime in Baltimore. If you will give me a moment I will find it. I quote it myself in a book but I will have to find it. The study deals with juvenile delinquency, published by the Columbia University Press in 1954. Professor Leander, who teaches sociology at Hunter College in New York, established that crime rates, which are one of the interests of social psychology, rise as the amount of contact increases between racial groups not previously in contact with one another. That is, he found that in Baltimore, when negroes were only, say, five percent of the population of a given census type, the crime rate remained normal, but as they increased [368] their percentage, owing to immigration from the South, the crime rate increased far beyond expected proportion in terms of the population, and he goes on to say that when they are once more separated from whites the crime rate decreases again becoming very nearly normal. What he found was that once a group becomes either 100

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per cent white, or nearly so, or 100 per cent negro, the crime rate goes below what it is when there is a contact of sizeable groups of both sides.

Q. His conclusion then is that anti-social behavior, essentially, is a function of the degree of contact between two dissimilar groups? A. Yes. He states very explicitly that it is not related to housing conditions and many other matters to which sociologists at times have tried to relate it, but mainly related to the phenomenon that he calls anomie, which is a word that comes from Plato and used by authorities ever since in a sense. There are many things related to this phenomenon, and this phenomenon comes about through the contact of previously alien groups which tends, as it were, to shape each group in the acceptance of its own rules or groups.

Q. Now, would you say that this same effect takes place, not in a city like Baltimore, but in a classroom? In other words, essentially, is that what you are talking about? A. Yes, indeed, that is what I am talking about.

[369] Q. In other words, the disciplinary problem side of the class would increase to the extent you increase the contact between the two groups? A. Yes, because you would have groups of very different habits.

The Court: Just what do you mean? I can't follow you. Propound the question again, please. Just ask that question again.

Q. Doctor van den Haag, to take a smaller example, you were talking about the fact that the studying of the entire ward of the City of Baltimore—

Mr. Mayfield: —Your Honor, I am going to object to any reference being made to Baltimore. He testified that this was a study of the City of Baltimore and it has no relevancy to this case at all, and I move that this part of the testimony be stricken.



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The Court: What do you say to that?

Mr. Leonard: Your Honor, as I understand it, we are being told that there has been a general holding of fact which is good for the entire country, that the segregation of the white and negro children into separate schools is harmful to the negro. It is not isolated by any community, and I am trying to show, therefore, that race relations, taken as a whole, whether they are in Baltimore, or in Savannah-Chatham, follow a pattern and [370] the pattern that we are discussing in Baltimore can be anticipated as occurring in Savannah, Georgia.

The Court: I see your proposition. I tell you what you do, Mayfield, you do just like I told your other counsel here. Any matter that comes before the court, in order to facilitate the matter, you hold your objections until all the evidence is in, and then I am going to hear from you all as to the materiality or illegality of the testimony. Just make a memorandum or remember it when all the evidence is closed and then you can raise your objection. If I was to sit up here and every time an objection was made and hear arguments on it, we would not have been anywhere near through, and I do want to get through with the case in a reasonable time, and I can do a better job by you withholding your objection until all the evidence is in and then you object to it, and I will rule either with you or against you. I think that's the best way to handle the situation.

Mr. Mayfield: Thank you, your Honor.

Q. To repeat my question, Doctor van den Haag, to move from a segment of the population as large as a ward in Baltimore and the conclusions that you have stated about the effect of the mixing of the two groups, bringing

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it down to the classroom, in which you stated that a conflict would exist between the two groups, and which you have previously testified [371] about, is this essentially the same effect we are talking about? In other words, what I am getting at, Doctor, would it exist in the classrooms?

A. Yes, sir, I would say that in a classroom the effect would be somewhat intensified for the simple reason that the psychological phenomenon would be attributed to contact between two different groups that were not previously in contact. It is obvious that merely residing in the same ward will involve less contact of a less intimate nature than going and sitting together in the same classroom, therefore, I think, if Professor Leander's study is correct, I would think that the effect that he found to exist in Baltimore would be multiplied in a classroom in which there is involuntary congregation.

Mr. Leonard: That is all I have, Doctor.

The Court: Any questions, Mayfield?

Mr. Mayfield: Yes, your Honor.

*Cross-examination by Mr. Mayfield:*

Q. Doctor, I am quite interested to know whether you have ever testified in a case of this type before? A. No, sir.

Q. Am I given to understand that you are a professor [372] at the New York University? A. Yes, sir.

Q. And I take it then that you are brought into contact with the mixing of the races, are you not? A. Yes, sir.

Q. Then can you tell this court whether or not this has had any adverse effect on the students? A. Well, sir, to do that, I would have to have a group socially and otherwise composed as my classes are at The New York University without the mixing of the races, and then I



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would have to make a comparative study of their behavior when the races are mixed versus their behavior when they are not mixed. Now, I do find in my classes at New York University a number of things that I am not exactly pleased with be that level of achievement or other types of behavior. It is possible that this is applicable to the thing that you have just mentioned, but I will not be able to find out unless I have an exactly similar class of race mixture that you are interested in.

Q. I will repeat my question, Doctor: Do you know of any adverse effect on the learning abilities by virtue of the mingling of those races in your class specifically, if you choose to come down to that point? A. I don't choose. I will do what you want me to do.

[373] Q. Doctor, I simply want a yes or no answer, with your explanation, if you choose to give one? A. The answer is I do not know of an adverse effect to be attributed to this because I have not made a study that permits me to attribute the effect to anything.

Q. Well, let me ask you again, sir: How is the relationship between the negro students in your class, or classes, and the white students in your class, or classes? A. As a matter of fact, there is very little relationship. I observed, for instance, in the cafeteria and in similar places, that although no segregation is imposed negro students tend to sit at tables apart from white students and vice versa. I am sure if there is pressure it is the other way around toward mixing, but nonetheless anyone entering the New York University cafeteria will observe what I have observed.

Q. Have you observed any inter-racial mixing in the cafeteria, since you have chosen to move from your classroom to the cafeteria? A. I am perfectly willing to stick to the classroom, if you prefer, but in the classroom I have had no opportunity to observe whether they are mixing or not

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because I assign seats. The only opportunity that I have to observe that are in those places where the seats are chosen by the [374] students, and that is why I refer to the cafeteria. Hence, for inter-racial mixing generally, I would say that it occurs on certain officially sponsored occasions, but it does not occur on a spontaneous basis except in some cases where I have noticed inter-racial couples at times. Now, this leads us into a different territory, but I am perfectly willing to go into that, if you like for me to do so.

Q. Well, Doctor, actually, what you have previously testified to on direct examination by Mr. Leonard, you can't really say that there is an adverse effect resulting to an individual owing to the mixing of the races, can you? A. I can, sir. I can on the basis of literature which I have quoted at some length and on the basis of observations that I have already presented. If your question is whether I can by my naked eye observe the effect and the cause I would have to make a special study which would leave all other conditions the same and—

Q. —Well, Doctor does— A. —and that study I have not made, but others have as I have mentioned to you.

Q. Well, let me ask you this, Doctor: Does your position, as you have testified to here today, does that reflect the majority opinion or the minority opinion? A. Well, if you will permit me, I will have to [375] tell you that I have not counted heads on the matter, and the reason I have not counted heads is that it has never appeared to me that scientific questions are decided by a vote, and I know of no one who would today agree to that. Let me suggest that when Galileo decided that the earth moves around the sun the majority opinion at that time decided or insisted that the sun moves around the earth, but Galileo was right, though he was a minority of one, and so should I find myself in this minority of one I would not regret it. I have not established what the size of the group is that shares my



views or what the size of the group is that holds different views. My own feeling is and if you will permit me I will try to tell you why it is this: I mentioned before in my testimony that the book "Problems of Society" wrote briefly what seems to me to be a rather odd experiment of Professor Kenneth B. Clark. My book was edited, among other things, by a gentleman who was then President of The American Sociological Association and is still a Professor and Chairman of the Department of Sociology at Columbia University. This gentleman suggested that I leave out this part of my book and I inquired whether he felt that I was wrong, in which case I was quite ready to leave it out. He did not commit himself on that. He merely told me that it would harm the sales of my books, so did the publisher of the book. As you may notice, by inspection, the chapter in question has been made in the [376] book, but I got the impression that you are probably correct in your implication that a great number of social scientists do not like the kind of evidence and the kind of conclusion that I presented in my work. I don't know whether they amount to the majority, but certainly they include a great number of distinguished men. However, their behavior and my personal contact with them has not convinced me that they have taken their positions on the basis of what they themselves would normally consider as evidence and it has also convinced me that they feel sort of a moral duty, right or wrong, to take this position, and feel apparently that to take this position that they are considerably morally better and justifies ignoring and sometimes tailoring scientific evidence.

Q. Then, Doctor, not knowing whether your position reflects the majority or the minority views, you could not very well say then that what was experienced in Baltimore would be experienced here, I mean in Chatham County, could you? A. Yes.

Q. You could anticipate that, is that your testimony, sir? A. Yes, sir.

Q. Now, on what basis do you base that? A. You are asking me to repeat my testimony, and I am perfectly willing to do so. The phenomenon in Baltimore [377] was attributed by Professor Leander, who, by the way, is bitterly opposed to segregation, was attributed to the mixture of two sub-cultures. As I have tried to indicate before, what matters here is not whether that mixture took place in Baltimore, or in any other place, what matters is the mixture in itself that leads to the social consequence. If that is true, then I think it would be equally true whether the mixture takes place here in the South or somewhere in the North, except that I would add if the mixture takes place in a region where the separation has been long established and is based on a long historical tradition and where it has been somewhat stricter than in the North, then the sudden mixture would have probably a more intensive and adverse effect than it would have where some degree of mixing was always socially admitted.

Q. Now, Doctor, let me go back to a bit of your earlier testimony in which you stated that groups were prone to mingle with one another, that is, of their own racial identity. Let us take, for example, a purely hypothetical situation where there are two children in a bi-racial neighborhood and they come up together, they enroll in school in the first grade together, they continue through school together, would your answer be the same under those circumstances as if they had not been reared together? A. Well, let me see if I understand your question [378] correctly, sir. Do I understand you to say that if they are accustomed to being together, being brought up together, that this would tend to modify their attitude?

Q. Essentially, yes? A. Well, I think some modification is possible under the circumstances, but there is a great



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deal of evidence in both directions, but I cannot share the optimism you seem to imply. I am thinking now of groups which correspond entirely to your suggestion. The Jews in Germany were indeed brought up with non-Jews from the beginning and mixed freely and so on, but unfortunately, as far as I can understand, that has not at the time modified the German attitude toward Jews in a favorable sense. I am also reminded that I have noticed in my psychoanalytic practice that hardly have I ever found people more hostile to each other than those who have been closely associated over a long period of time. For instance, a married couple that got a divorce, or is in the process of getting a divorce, are certainly people that are quite well acquainted with each other, but this acquaintance has not necessarily led to friendship, so as I understand the implication of your question would it not be better to get people together so that through their contact with each other they may lose their prejudices, well, it is a very optimistic view but it seems to me that the evidence is that prejudices are quite as often reinforced and acquired through such acquaintance than there are lost, so my answer to [379] your question about this common upbringing is that it does not in itself guarantee or even make likely a friendly relationship. Now, I think the next question would be: "What would"? And to that, unfortunately, I have no very good answer.

Q. Let me ask you again, Doctor; is it your position that association is a matter of choice? A. Actually, you mean?

Q. Yes? A. I meant to say that it should be a matter of choice. One should not be compelled to either associate or dis-associate with some one, and that both are likely to be much better off if it is a matter of choice, but certainly I could not say, in general, that association is always a matter of choice. If you are inducted into the Army you are not choosing your associates. If you are put in jail you are not choosing your associates, but if you are free, normally,

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you are, and it seems to me that there are constitutional guarantees that you have the right to choose your associates, provided that they accept your association.

Q. Therefore, if the association was voluntary your testimony would be entirely different, wouldn't it? A. I would certainly feel that it would be much more favorable if it was voluntary, yes.

Q. Now, one last question, Doctor do you know of [380] any studies, which I am quite confident there are many, that refutes your position entirely and emphatically?

A. If you mean to say studies that favor segregation—I am sorry, de-segregation.

Q. Yes, sir? A. Certainly, there are quite a number of studies and I am acquainted with some. If you mean to say that any of these refutes the arguments that have been elicited from me today by Mr. Leonard's questioning, I am not aware of any such studies.

Q. One last question, Doctor; I noticed in your testimony that you made reference to the fact that if a negro was transferred to a white school, or a white student transferred to a negro school, as the case may be, and there was a tendency for the negro child to probably be mentally destroyed by virtue of the superiority purportedly of the white students. Now, would you not agree that there is a strong inclination, where one transfers into a position like this, that the individual would strive to emulate the superior group? Have I made myself clear? A. Yes. And I would agree, and that is precisely what I think might be harmful. That is, he would identify with the superior group at times and lose his self-identification. He would furthermore be torn between loyalty to his own group [381] and this attempt to emulate or identify with the superior group. This, indeed, what Professor Clark has, somewhat against his wishes, apparently, quite well established; that this would lead to an attempted de-identification



and that this would have very bad psychological consequences on the person who attempts this attempt to emulate. I am not speaking of every individual case. I am speaking in terms of groups.

Q. Have you, or your staff, conducted any studies in Chatham County relative to the sociological effects desegregation would have? A. Sir, I have no staff. I arrived in Chatham County yesterday and I expect to leave, if I may, probably today. I have conducted no special studies in Chatham County.

Q. So you actually know of no adverse effects, from your own investigation, that would take place by virtue of desegregated school system in Chatham County, have you? A. I have not been in Chatham County long enough to know of any effects.

Mr. Mayfield: Thank you.

The Court: You will understand that this is Glynn County.

The Witness: I have not been in Chatham County at all then.

The Court: All right, any other witness?

[382] Mr. Leonard: No, sir. However, your Honor, at this time I would like to say that we all are trying to get this case tried as quickly as possible. Our next witness is flying here from Scotland and cannot be here at this time. He is coming directly to Savannah and we will have him there Monday morning and be prepared, I believe, to conclude this case on Monday.

The Court: Well, good. Now, I will expect you all there Monday morning at 10:00 o'clock in the federal court room in Savannah, Georgia.

Now, I might say this: That is my regular term of court over there, and I have arranged with the court of-

ficials, the district attorney to put their cases back. Now, I am inconveniencing some people, but I have not heard anybody fussing and saying that the world is coming to an end by my doing that. They all have cooperated and have moved their cases back, so I could finish this case, because everybody seems to think it should be tried and I thought it should be tried, and I am going to stick right with this case and I will conduct it along the same lines that I have been conducting it, and if anybody has any objections—I will repeat it again—if anybody has any objections to any of the testimony, when the evidence is closed they can present their objections to any evidence that has been introduced and I will give it due consideration and [383] pass upon it.

Mr. Mayfield: If your Honor please, I would like to ask one question of the Court. You requested earlier that the respective parties submit orders.

The Court: That's right.

Mr. Mayfield: Would you like this Monday morning or at the end of the evidence.

The Court: I would like to get it by Monday. I think it would be easy to do that on the case of the Savannah Board of Education because the evidence is all closed on that. I am sure you could do that, and as far as this other case is concerned, if you are in position to do so, I would like to get it on Monday morning, if not, you can do it sometime Monday after you close your evidence.

Mr. Leonard: Your Honor, if I understand, Mr. Mayfield used the word "order". If I understand it, we are to submit findings of fact and conclusions.

The Court: Findings of fact and conclusions of law and final judgment.

Mr. Leonard: Thank you, sir.

The Court: All right, then I will see you all over there Monday morning in Savannah.



The Marshal: Take a recess until 10:00 o'clock Monday morning and reconvene at Savannah, Georgia.

[384] Note: At this point the proceedings were recessed from 4:40, P. M. Friday, May 10th, 1963, at Brunswick, Georgia to be reconvened in Savannah, Chatham County, Georgia, at 10:00 o'clock, A. M., Monday May 13th, 1963.

10:00 o'clock, A. M. Monday, May 13th, 1963.

The Court: Well, I think we have gotten about everything out of the way, and we will now get back to this case. What do you gentlemen say? Now, in order to get an idea as to the time it will take to finish up this case. How many witnesses do you all have?

Mr. Pittman: Your Honor, I have an announcement to make with respect to that at this time.

The Court: All right.

Mr. Pittman: We have brought three witnesses here, as indicated, but their testimony, however, will be cumulative, and in view of the lack of rebuttal we have decided at a conference within the last 30 minutes not to use our witnesses on direct examination, but to save them for rebuttal.

The Court: Well, suppose there is no rebuttal, then what?

Mr. Pittman: Then they will not be used, and since [385] your Honor announced in Brunswick that you would like to conclude this case today, or as soon as possible—

The Court: —if it can be done without prejudice to anybody, if not, I will keep on trying it.

Mr. Pittman: We have decided that it will not prejudice our case. We have established the essential allegations of our intervention.

The Court: Then, in substance, you are not introducing any other evidence?

Mr. Pittman: Right. And we desire to give the court ample time to prepare its findings and orders in this case.

The Court: All right, what do you all say?

Mr. Gadsen: May it please the Court, during the trial over in Brunswick the Court suggested that we withhold our objections until now.

The Court: Yes, I am going to hear from you all on that, because everything they made an objection I told them to make note of it and to wait until after all the evidence was in and then I would give all of you ample time to present your objections to any part of the evidence, and that is exactly what I am going to do. But first, do you have any further evidence to present?

Mr. Gadsen: We have no further witnesses.

[386] The Court: All right, then what do you all say?

Mr. Pittman: The intervenors now rest.

The Court: All right. Now, I believe the Board of Education rested over in Brunswick.

Mr. Morris: If the Court please, I would just like to make a statement for the record, if I may, on behalf of the defendants.

The Court: All right.

Mr. Morris: The defendants adopt the evidence presented by the intervenors which undertakes to show that damage to both races would result from integration, so that the Court may give it such consideration as it deems proper in connection with any order it may render in this case.

The Court: All right, let the record show that, Mr. Court Reporter. Well, that's all of the case then, besides framing my judgment. Now, I will hear from you all. I told you all through the trial over in Brunswick to hold your objections and I would hear from you after the evidence was concluded. Now, I will be glad to hear from



you, and also opposing counsel. That's you. I will hear your objections now.

Mr. Mayfield: May it please the Court, since the intervenors have terminated their case, or rested their case, the petitioners would respectfully submit that we are going to move to strike the testimony of each and every witness that has [387] testified from Thursday through Friday. I think Dr. Osborne was the first gentleman who testified. Our basis for this motion is that the testimony offered by each and every one was immaterial, irrelevant, and held no bearing, one way or the other, upon the issue before the Court. We contend that the evidence has shown that Chatham County does operate a dual school system and this selection is made on race, and the decision in the *Brown* case has held that this cannot be constitutionally done, and the evidence offered by the gentlemen for the intervenors should be stricken from the record on that ground; that the matter is not such that can be classified by this Court. The matter has already been adjudicated by several decisions and each one of them has been confirmed by the U. S. Supreme Court.

The Court: Well, let me ask you a question. Hasn't the Supreme Court reversed itself once on this? Didn't they hold that equal facilities, through the years, didn't they pass that and then changed their minds and decided that it was illegal?

Mr. Mayfield: I take it, your Honor, that you are referring to the *Plessy v. Ferguson* case.

The Court: I am referring to two or three cases from time to time. This case went to the Supreme Court from time to time and they said it was perfectly legal to have equal [388] equal but separate facilities, but in the *Brown* case they decided that was not the right law and changed it and said it was illegal to operate separate schools that way, isn't that correct?

Mr. Mayfield: We take the position, your Honor, that the *Brown v. Board of Education of Topeka* case supersedes that law.

The Court: I know that, but you didn't answer my question. The question was, "Didn't the Supreme Court reverse themselves?"

Mr. Mayfield: I have no knowledge of this, your Honor.

The Court: For a hundred years or more, didn't they hold that they could have equal but not the same opportunities, wasn't that true?

Mr. Mayfield: This is true, your Honor, as I indicated. It was held in the *Plessy v. Ferguson* case, but the Supreme Court reversed itself on May 17th, 1954, in which the Court held that there could be no equality in separation.

The Court: But they did reverse themselves in 1954?

Mr. Mayfield: That is true, your Honor, and this is the crux of our case. We maintain that by virtue of the two school systems in Chatham County that it contravenes this particular ruling of the Supreme Court in 1954, and again I would respectfully submit and move that all the testimony of [389] all the gentlemen be stricken from the record as being immaterial and irrelevant to the issue before the Court today.

The Court: Now, anything else? How about the other counsel? I want to give you a full hearing. I told you that I would. I think you have made a statement that covers this situation, all the evidence introduced by the intervenors, or the defendants, over in Brunswick last Thursday and Friday on the grounds that it is illegal and immaterial?

Mr. Mayfield: That's true, your Honor.

The Court: All right. Is there anything that you might want to add to it.



Mr. Gadsen: Your Honor, I have no further statement to add to that.

The Court: All right, then I will hear from you all.

Mr. Pittman: Your Honor, in view of the statement made by counsel for the plaintiffs and the colloquy I would like to ask Mr. George S. Leonard to make a brief statement as to the position of the intervenors.

The Court: All right, I said I would give them all the time they wanted and I will do you the same way. I said that I would hear all objections by either side after the evidence was concluded. They have stated their position. Now, I will hear from you in rebuttal to what they said.

[390] Mr. Leonard: Thank you, your Honor. The case of the intervenors accepts, without question, *Brown v. Board of Education* as the governing authority. *Brown v. Board of Education* only holds one thing, namely, that separate but equal facilities under *Plessy v. Ferguson* will no longer be sustained because upon certain factual proof which was then placed before that Court it was felt that certain psychological damage occurred to negro children from the mere existence of segregated schools. Now, that was a holding upon facts found in two of the four underlying cases which were brought up under the title of *Brown v. Board of Education*.

Now, when the Supreme Court said that it intended to depart from the rule of *Plessy v. Ferguson*, it stated that it did so only because of the change in psychological knowledge over the years since that earlier decision. We have come forward in this case to show that, in effect, the Supreme Court was deceived. In effect, the material put before the Supreme Court in the underlying cases was one-sided. It was not controverted. *Plessy v. Ferguson* at that time was the law of the land. Nobody had intended, nobody thought that there was any possibility, after some forty or fifty decisions, that there would be a change to the present circumstance; so the result was that at no time were these

authorities, which were put forward in the so-called "Brandeis Brief" before the Supreme [391] Court ever properly answered. Now, we have come forward in this case solely to do that. This is a question of fact. The Supreme Court, in effect, has held that the equal protection of the law requires that there shall not be injury to these school children, whether they are white or black. In that particular case, on the lack of any opposition, injury was found to have occurred to the negro plaintiffs in those cases.

In this particular case we submit that we have supplied un rebutted and, in fact, uncontradictable evidence that much greater and far more severe psychological damage would occur to both negro and white children if the relief which is demanded by these plaintiffs was actually put into effect.

Now, this is a question of fact. It is a question of fact in the Savannah-Chatham County area. We are extraordinarily fortunate in finding that very extensive test results had been gotten specifically in this area to determine this question and whether the education of these two races can be so adapted to a single classroom as to give the educational process the same efficiency which it has now.

We have tried to demonstrate to this court and feel that the testimony of these witnesses has clearly shown that to mix the races in the present classrooms of Savannah-Chatham County with the existing differences which do exist and are shown on these tests, would be in effect to destroy the educational system which exists here; and not only the system but more particularly injure both the [392] negro children of the plaintiffs' class, as well as the white children of the intervenors' class, and that this injury is truly irreparable.

Therefore, your Honor, we simply answer to the objection to the evidence that what we are talking about here is matter of demonstrable scientific fact. It cannot become a question of law until such time as it gets beyond the point



of being questioned, and in this particular case we have attempted to question it. We submit that we have questioned it sufficiently and completely, so much so in fact the plaintiffs have put in no rebuttal of any kind to these facts, relying solely upon the claim that it is now law that personal injury must occur to an individual from a mere situation regardless of where or how. Our argument is that this is not a proposition of law. It's a proposition of fact, and we have carried the burden of proving that the true fact is to the contrary.

Thank you.

The Court: Anything else. Any of you gentlemen want to make a statement?

Mr. Morris: If the Court please, from the standpoint of the defendant, we feel that our proposed findings of fact and conclusions of law states the position of the school board, and you have those before you.

The Court: I know, but let me ask you—do you [393] mean, and I think you stated here this morning in the order that you read to the Court Reporter, that the City of Savannah and Chatham County is supporting the theory that is outlined by the intervenors?

Mr. Morris: If the Court please, the position that the defendants have taken that and I would like to be specific as to the language, which is important. Now that language, let me restate it, sir:

Defendants adopt the evidence presented by the intervenors which undertakes to show that damage to both races would result from integration, so that the Court may give it such consideration as it deems proper in connection with any order it may render in this case.

The Court: Well, that is neither yes or no.

Mr. Morris: That says, sir, that we adopt that evidence for the specific purpose set forth here.

The Court: Well, I guess that does say yes. That is what I have been trying to get you to say, one way or the other. O. K. All right.

Now, how about the State of Georgia?

Mr. Leverett: Nothing for the State, your Honor. We are just helping the City of Savannah Board of Education.

The Court: Well, I would like to say, regardless of what the newspapers had to say, I have enjoyed trying the [394] case. I think it is a question that should be determined. I think whether you are right, or whether you are wrong, I think it ought to be determined and it will be determined, I imagine, by the appellate court. I think, under the facts and under the order which I have passed sustaining the injunction, unless you all could make out your proof, all of that is a question of fact, I think, and I am going to overrule your objections as to the testimony of the witnesses.

What I am going to do today—I didn't know I was going to have all of this time. I thought we were going to be on this case all day, but it will give me time to read over your conclusions of fact, or rather read over your findings of fact and conclusions of law. I will read them over and after I read them over then I will render my judgment.

I was surprised coming into court this morning and not having anything to try, but I did clear the decks to hear this case today. You didn't want to introduce any rebuttal evidence, but that is your business. That is none of my business; but I will give everything consideration, and after I read and study these over, then I will render my judgment. But I am admitting your evidence (referring to intervenors) for the reasons I have stated, and I am overruling your objections for the reasons I have stated, and with that we will take a recess until 10 o'clock tomorrow morning.

[395] The Marshal: Take a recess until 10 o'clock tomorrow morning.

(END OF ORAL TRANSCRIPT OF EVIDENCE)